

Minneapolis Community Development Agency

Request for City Council Action

Date: December 9, 2003

To: Council Member Scott Benson, Intergovernmental Relations Committee

Prepared by: Ann Calvert, Senior Project Coordinator, 673-5023

Approved by: Lee Sheehy, MCDA Executive Director
Chuck Lutz, MCDA Deputy Executive Director _____

Subject: Authorization to Execute Programmatic Agreement with Federal Energy Regulatory Commission, State Historic Preservation Office and Others for Xcel Energy's St. Anthony Falls Hydropower Project

Previous Directives: On March 27, 1998, the City Council approved the submission to the Federal Energy Regulatory Commission (FERC) of comments related to NSP's draft application for re-licensure of the St. Anthony Falls Hennepin Island Hydroelectric Plant. On April 10, 1998, the MCDA Board of Commissioners concurred with those comments. On February 19, 1999, the City Council and MCDA Board of Commissioners approved the submission of a request for additional studies related to the re-licensure. On August 10, 2001, the City Council authorized the City Attorney to file for intervenor status in the re-licensing process. In March of 2002, the City submitted to FERC comments on Xcel's license application that were consistent with the 2001 Council authorization. On August 22, 2003, the City Council approved the submission of comments on the draft Federal Energy Regulatory Commission's Environmental Assessment.

Ward: 5

Neighborhood Group Notification: The Marcy-Holmes Neighborhood Association also has been asked to be a concurring party to the proposed Programmatic Agreement.

Consistency with *Building a City That Works*: Execution of the Programmatic Agreement will assist in achieving Goal 4 – Preserve and enhance the historic structures, urban institutions, environments and amenities that define Minneapolis.

Comprehensive Plan Compliance: Historic preservation is one of the goals of the Comprehensive Plan.

Zoning Code Compliance: Not applicable.

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Impact on MCDA Budget: (Check those that apply)

- ☒ No financial impact
- ☐ Action requires an appropriation increase to the MCDA Budget
- ☐ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☐ Other financial impact (Explain):

Living Wage / Business Subsidy: Not applicable.

Job Linkage: Not applicable.

Affirmative Action Compliance: Not applicable.

RECOMMENDATION:

City Council Recommendation: The Executive Director recommends that the City Council authorize the appropriate City officials to execute (as a concurring party) a Programmatic Agreement relative to the St. Anthony Falls Hydropower Project, as described herein.

Background/Supporting Information

For the last several years, Xcel Energy/Northern States Power (Xcel) has been in the process of seeking re-licensing by the Federal Energy Regulatory Commission (FERC) of its existing St. Anthony Falls hydropower plant. This plant is located on Hennepin Island at upper St. Anthony Falls. Given the central location of this facility in the middle of the Minneapolis Riverfront District and the extensive investments made by many public entities in the redevelopment of this area, the City of Minneapolis and Minneapolis Community Development Agency (along with others) have been participating throughout this FERC process. As noted in the "Previous Directives," this involvement has included provision of comments and input at multiple points in the process, as well as seeking status as an "Intervenor" with certain rights. The goal has been to protect and enhance the environmental, historic, aesthetic and other aspects of the area.

Section 106 of the National Historic Preservation Act requires that any undertaking that involves federal funds, permits or actions must be reviewed to determine if there will be any adverse impact to historic resources and, if so, to explore ways to avoid, reduce or mitigate those impacts. As part of the Section 106 process for the FERC re-licensing of the St. Anthony Falls Hydropower Project, a "programmatic agreement" is proposed.

The primary signatories to the Programmatic Agreement will be FERC, the Minnesota State Historic Preservation Office (SHPO) and the National Advisory Council on Historic Preservation. It is typical that programmatic agreements also include other parties as "concurring parties" that will be notified about and included in the various steps of implementation of the agreement. In this case, the concurring parties will include the City of Minneapolis, Corps of Engineers, Marcy-Holmes Neighborhood Association, Minneapolis Heritage Preservation Commission, Minneapolis Park and Recreation Board, National Park Service/Mississippi National River and Recreation Area, St.

Anthony Falls Heritage Board, and Xcel. Concurring parties have a limited direct role in the Programmatic Agreement, but at least are assured they will be notified about activities under the agreement and have an opportunity to comment.

A draft programmatic agreement for this project has been prepared and reviewed by staff of the involved parties. This agreement provides for the preparation by Xcel of a Historic Properties Management Plan (HPMP), specifies how Xcel will manage its historic properties in the interim until the HPMP is completed and outlines the processes for resolving objections and for amending or terminating the agreement. It is recommended that the appropriate City officials be authorized to execute the Programmatic Agreement so that the City will continue to have a role in implementation of the Agreement.

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